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POSTAL RATE AND FEE CHANGES, 2001 : Docket No. R2001-1

JOINT INTIAL BRIEF OF AMERICAN BANKERS ASSOCIATION AND NATIONAL
ASSOCIATION OF PRESORT MAILERS

(March 4, 2002)

Henry A. Hart, Esq.
Reed Smith LLP
1301 K Street N.W.
Suite 1100 - East Tower
Washington, DC 20005
Ph: 202-414-9225
Fax: 202-414-9299

Irving D. Warden
Assoc. General Counsel
American Bankers Association
1120 Connecticut Ave., NW
Washington, DC 20036
Ph: 202-663-5035
Fax: 202-828-4548

Counsel for
National Association
of Presort Mailers

Counsel for
American Bankers Association

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I. **First Class Presort Automated Rates Are The Only Rates Contested By Any Party In This Proceeding; And Only One Party, APWU, Has Contested Such Rates.**

The Commission has before it in this case, proposed settlement rates for all classes and subclasses of mail.¹ Representatives of the mailing public (including the Office of the Consumer Advocate) and the Postal Service all support all of the Settlement Proposal rates along with 56 other intervenors. No party has contested any of the settlement rates, except the American Postal Workers Union, AFL-CIO (“APWU”) which contests the First Class presort and automated rates contained in the Settlement Proposal.

The American Bankers Association (“ABA”) and the National Association of Presort Mailers (“NAPM”) submit that the application of reasoned administrative judgment to a record, uncontested by any party as concerns Settlement Proposal rates other than First Class presort and automated rates, supports those rates.

II. **The Settlement Proposal First Class Presort And Automated Rates Are Supported By Application Of Sound Pricing Principles To Any Accurate Measure Of Cost Avoidance.**

A. **Any Accurate Measure Of Cost Avoidance Of First Class Automated Letters Demonstrates Cost Avoidance At Least Equal To The Settlement Proposal FCLM Automated Letter Mail Discounts.**

¹ These settlement rates are included in a December 17, 2001 Stipulation and Agreement, revised as of February 13, 2002, filed by the Postal Service (hereafter the “Settlement Proposal”).

A critical element in setting discounts for First Class automated mail is an accurate measure of cost avoidance. The Commission has consistently calculated cost avoidance of workshare mail on the basis that Postal Service labor costs are 100% volume variable. The Commission most recently used this methodology in the last general rate case, R2000-1. Abandonment of this longstanding and effective principle would be particularly inappropriate in a case such as this which will be resolved in large part by settlement pursuant to an expedited hearing schedule.

There is in the record of this case, evidence from no less than three parties demonstrating that application of this Commission methodology to the Postal Service costs for TY 2003 will yield cost avoidance measurements for automated FCLM which fully support the Settlement Proposal discounts for automated FCLM. These cost avoidance measurements are set forth in Table 1 below, along with the Settlement Proposal discounts for the corresponding rate categories.

Table 1 demonstrates beyond any doubt that the record in this case contains substantial evidence of automated FCLM cost avoidance, measured in accordance with Commission precedent, which cost avoidance exceeds the Settlement Proposal automated FCLM discounts.

TABLE I
COST AVOIDANCE MEASUREMENTS IN THE RECORD BASED UPON COMMISSION
R2000-1 METHODOLOGY

FCLM Automated Category	Inst. Response to ABA&NAPM/USPS-T22-42	Inst. Response to MMA/USPS-T22-76 ³	Clifton Refined Using PRC Method ⁴	Bentley Using PRC Method & Correcting Schenk ⁵	Settlement Proposal Discounts
Mixed AADC	7.835 cents	7.994 cents	7.994 cents	8.1 cents	6.1 cents
AADC	8.918 cents	9.076 cents	9.147 cents	9.1 cents	6.9 cents
3-Digit	9.280 cents	9.439	9.534 cents	9.5 cents	7.8 cents
5-Digit	10.552 cents	10.711 cents	10.887 cents	11.1 cents	9.2 cents

It is also important to note that the above cost avoidance measures do not reflect several tasks performed by workshare mailers, including those testified to by NAPM witness Jay Gillotte

² 10A Tr. page 2638 and 2639. These figures were derived by taking the cost avoidance in USPS-LR-J-84 (PRC version, revised 11-15-01) and correcting it by using the delivery unit costs of all FCM Non-Automation Presort letters as a proxy for delivery unit costs of BMM, as the Commission did in R-2000-1, which adds 1.89 cents.

³ 10A Tr. page 2862. These figures make the same adjustment to USPS-LR-J-84 (revised 11-15-01) as were made in Institutional Response to ABA&NAPM/USPS-T22-4, and in addition add back the two cost pools which Miller excluded but the Commission included in R2000-1. The same figures are given by MMA witness Bentley (MMA-SRT-1) at 13 Tr. page 4163. Table 2, "PRC 2000-1 Methodology."

⁴ Clifton Surrebuttal Testimony (ABA&NAPM-SRT-1) at 13 Tr. page 5287, Table 5 and Workpaper 1, Table 20. To derive these figures Dr. Clifton utilizes the Commission R2000-1 methodology, including its R2000-1 delivery proxy for the BMM benchmark, but adds back additional cost pools not included by Miller in this case (or the Commission in the last case) on the basis that such cost pools are relevant to worksharing.

⁵ Bentley Surrebuttal Testimony (MMA-SRT-1) at 13 Tr. page 5163, Table 2, "MMA Methodology." These figures are also derived from the Commission R2000-1 methodology, except for a correction of USPS witness Schenk's delivery costs, as explained at 13 Tr. pages 5211-5220, "Exhibit MMA-4A."

(NAPM-SRT-2). These additional tasks, not reflected in the cost avoidance figures set forth in Table 1, include avoided supply costs, customer education costs, costs of distributing trays and other mail transportation equipment to customers, reduction in USPS peak worktime activities, reduced truck fleet costs, and significant savings from reduced Undeliverable As Addressed mail resulting from mandatory move update requirements imposed upon automated FCLM. Gillotte Surrebuttal Testimony at 13 Tr. pages 5030-5036. In addition, the avoidance of substantial problems resulting from large volumes of workshare mail reverting to the Postal Service in the absence or diminution of the workshare program, as explained by witness Gillotte at 13 Tr. pages 5029 and 5030, is additional cause for the Commission to consider those cost avoidance measures in Table 1 above to constitute understated measures of cost avoidance.

B. The Settlement Proposal FCLM Automated Discounts Are Also Supported By Non-cost Criteria of 39 USC § 3622(b) identified By USPS Witnesses Robinson And Moeller, And By ABA&NAPM Witness Clifton.

Although cost avoidance is a critical component to be considered in setting FCLM discounts, it is not the only consideration. USPS witness Moeller (USPS-T28) provided detailed evidence on how the First Class Mail rates in the original USPS proposal, including those for automated FCLM, were supported by all of the statutory pricing criteria of 39 USC § 3622(b). Moeller Direct Testimony (USPS-T28) at pages 14-20. In his surrebuttal testimony USPS witness Moeller (USPS-RT-1) testified that the automated FCLM discounts, as adjusted by the Settlement Proposal, remain “consistent with the ratemaking criteria” and that the larger discounts in some FCLM categories can “be justified in light of further consideration of Section 3622(b)(4), in that the adjustments in the settlement agreement help temper the rate increases for

these categories.” Moeller Surrebuttal Testimony (USPS-RT-1) at 13 Tr. page 4973, lines 11 and 12.

In her Direct Testimony USPS witness Maura Robinson (USPS-T-29) testified to numerous 39 USC § 3622(b) considerations which supported the FCLM automation discounts in the original USPS proposal. These include achieving the cost coverage target provided by witness Moeller, recognizing the value of mailer worksharing, avoiding disruptive changes in discount levels, acknowledging the importance of mailer barcoding and presortation in overall postal operations, recognizing that overall automated letters are a low cost, high contribution mail stream, and recognizing the unfairness of sharply reversing discounts for workshare mailers who have invested significantly in the workshare program.⁶ During her cross-examination, witness Robinson unequivocally confirmed that these same considerations applied in support of the Settlement Proposal automated FCLM discounts.⁷

Lastly, ABA&NAPM surrebuttal witness Clifton (ABA&NAPM-SRT-1) specifically noted that he concurred with USPS witness Robinson’s judgment that the settlement proposal automated FCLM discounts were fully in accordance with all of the 39 USC § 3622(b) pricing criteria.⁸

⁶ Robinson Direct Testimony (USPS-T29) at pages 20 and 21.

⁷ Robinson Cross Examination at 7 Tr. at page 1608, lines 21-25, page 1614, line 8-12, and pages 1615, line 13-1618, line 1.

⁸ Clifton Surrebuttal Testimony (ABA&NAPM-SRT-1 at 13 Tr. page 5303, lines 25-28).

C. The Settlement Proposal For Automated FCM Flats Discounts Would Move Such Discounts In The Necessary Direction To Achieve The Much Needed Increase In Automated Flats Volume.

The Settlement Proposal would make no changes to the First Class automated flats discounts originally proposed by the Postal Service. That Postal Service First Class automated flats discounts proposal provides modest increases (0.5 cents) to the FCM automated 3 digit and 5 digit flats rate categories and is amply supported by the cost avoidance testimony of USPS witness Miller (USPS-T24) at page 14 at Table 1, and by the testimony of USPS pricing witness Maura Robinson who explained that the proposed discounts “are designed primarily to preserve the appropriate rate relationships between letters and flats in the automated arena, and between automation flats and the non-automation presort rate that applies to both letters and flats . . . this design is consistent with the postal rate making criterion which calls for a simple, identifiable relationships among rates.”⁹

APWU’s proposal to slash FCM automated flats discounts is without foundation and would worsen the significant problem which the Postal Service has with its spiraling flats processing costs.

That First Class automated flats discounts need to be increased, not decreased, is also supported by NAPM surrebuttal witness Gillotte, who points out that the USPS needs to increase flats discounts in order to increase the volume of automated flats which they receive, thereby reducing the problem which the USPS has with extraordinary increases in its flats processing

⁹ Robinson Direct Testimony (USPS-T29) at page 23, lines 17-19.

costs.¹⁰ While ABA & NAPM fully support the Settlement Proposal rates, including the FCM flats discounts therein, we note that substantial additional increases in these discounts will have to be implemented in the next case if the Postal Service is to have any realistic chance of increasing the volume of automated flats which is delivered to it.

D. The First Class Extra Ounce Rates Under The Settlement Proposal Represent A Step In The Right Direction Of Reflecting The Significant Cost Savings Of Extra Ounce FCM In General, And Extra Ounce FCM Presort In Particular.

An increased discount on the workshared additional ounce rate is amply supported by the record in this case. APWU witness Riley opposes the Postal Service proposal to set the additional ounce rate for FCLM workshared mail 0.5 cents lower than the additional ounce rate for FCLM single piece mail.¹¹ His only support for this position is his claim that the cost difference between single piece and workshared additional ounce mail does not justify any discount on the additional ounce rate. Mr. Riley made no effort to explain why an additional ounce piece should cost First Class mailers 23 cents when the Postal Service levies no additional ounce charge at all on Standard Mail letters weighing up to 3.3 ounces.

In her testimony, Postal Service witness Robinson (USPS-T-29) based the proposed discount for additional ounce workshared mail not only on the cost difference, but also on her

¹⁰ Gillotte Surrebuttal Testimony (NAPM-SRT-1). 13 Tr. 5038.

¹¹ Riley Testimony (APWU-T1) at 12 Tr. pages 4861 and 4862.

recognition that “...mitigation of the additional ounce rate is consistent with the Postal Service recognition of the relatively high markup of workshared First-Class mail.”¹²

ABA&NAPM witness Clifton also demonstrates, as illustrated in his Figure 4, that extra ounce costs for First Class presort and automation letters are materially lower than for single piece.¹³

The testimony of witnesses Robinson and Clifton amply justifies the discount proposed for additional ounces of workshared First-Class Mail.

III. **APWU Witness Riley’s Passthrough Testimony Supports The Settlement Proposal First Class Discounts If Applied To Accurately Measured Cost Avoidance; And Is Irrelevant If Applied To The Flawed Miller Method Of Measuring Cost Avoidance.**

The sole witness for APWU, Mr. Riley, offers no studies on or calculations of cost avoidance; instead he slavishly adheres to USPS witness Miller’s measure of cost avoidance. Without having done any cost avoidance studies, Mr. Riley makes what he describes as a “policy recommendation”¹⁴ that the Commission accept discounts for First Class Mail “at levels between 80% and 100% of the estimated cost avoided by the Postal Service.”¹⁵

If Mr. Riley’s recommendation as to the appropriate passthrough of avoided costs is to be given any credibility, Mr. Riley should be willing to apply his recommendation to any accurate

¹² Robinson Direct Testimony (USPS-T-29) at pages 24 and 25.

¹³ Clifton Surrebuttal Testimony (ABA&NAPM-SRT-1) at 13 Tr. page 5296, lines 10 and 11 and page 5297, Figure 4.

¹⁴ Riley response to ABA&NAPM/APWU-T1-7 at 12 Tr. page 4891.

¹⁵ Riley Testimony (APWU-T1-7) at 12 Tr. page 4864, lines 6-9.

measure of cost avoidance. Sensing late in the game that application of his 80 to 100% pass through level to accurately measured cost avoidance would fully support the Settlement Proposal presort and automation FCLM discounts, Mr. Riley during his cross examination clung to Mr. Miller's low-ball cost avoidance measurement as though it were a life raft, claiming weakly that Mr. Miller's testimony was the only cost avoidance in the record.¹⁶ However, Mr. Riley did ultimately admit that his advice to the Commission was to take his recommended percentage passthrough and apply it to whatever they determine to be the avoided costs.¹⁷

For the reasons explained in Section II(A) above, a reasoned method of measuring cost avoidance which is consistent with the Commission R2000-1 methodology yields cost avoidance for the major automated FCLM rate categories as shown in Table 1 above. A passthrough of from 80 to 100% of those cost avoidance levels would fully support the Settlement Proposal automated FCML discounts.

Conversely, Mr. Riley's proposed 80 to 100% passthrough of avoided costs is irrelevant if it is to be applied only to witness Miller's measure of cost avoidance, since Mr. Miller utilizes cost avoidance methodology which has been expressly rejected by the Commission in several cases, including the most recent general rate case, R2000-1.

¹⁶ Riley Cross Examination at 12 Tr. page 4903 lines 10-14, and 4904, lines 12 and 13. Of course, his statement was incorrect, since as noted in Table 1 above, the Postal Service institutional responses to Interrogatories ABA&NAPM/T22-4 and MMA/USPS-T22-76 were in the record at the time (10A Tr. pages 2638, 2639 and 2862 respectively) and provided cost avoidance utilizing the Commission's R2000-1 methodology. Furthermore, subsequent to his testimony, the record now includes the surrebuttal evidence of Dr Clifton (ABA&NAPM/USPS-SRT-1) and Mr. Bentley (MMA-SRT-1) summarized in Table 1 above.

¹⁷ Riley Cross Examination at 12 Tr. page 4906, lines 19-21.

IV. **Contrary To Unfounded APWU Assertions, Automated FCLM Cost Avoidance Is Understated, Not Overstated, And Is Increasing, Not Declining.**

A. **Mr. Riley's MERLIN Stories Are A Red Herring; Cost Avoidance Of Automated FCM Is Not Overstated.**

Although he conducts no cost studies and relies upon USPS witness Miller's methodology for measuring cost avoidance of automated FCLM, APWU witness Riley makes the ill-founded assertion that the Postal Service's cost avoidance measurements for automated FCLM may in fact be overstated. The sole foundation for this claim consists of outdated and ultimately irrelevant information from an August 2, 2001 MTAC meeting of the Postal Service's MERLIN Technical Advisory Committee suggesting that a significant percentage of mail presented as automated mail has unreadable bar codes, and Mr. Riley's "general knowledge" of the Postal Service.¹⁸ The fallaciousness of this unfounded assertion was thoroughly demonstrated by NAPM witness Gillotte who pointed out that: (i) subsequent to the August 2, 2001 MTAC meeting relied upon by Mr. Riley, the Postal Service recognized that MERLIN had been inaccurately programmed so that it failed mail with perfectly readable barcodes, (ii) as part of their normal procedures, presort bureaus confirm the accuracy of their barcodes when they place their barcoded mail on MLOCs for further sorting, and (iii) in any event, as unfair as it is to automated mailers, any mail which may flunk the MERLIN test is rejected for automation discounts, and therefore results in no loss to the Postal Service.¹⁹

¹⁸ Riley Testimony (APWU-T1) at 12 Tr. pages 4849, line 17-4850, line 2.

¹⁹ Gillotte Surrebuttal Testimony (NAPM-SRT-1) at 13 Tr. pages 5036-5038.

B. Cost Avoidance Of Automated FCM Is Clearly Increasing By Any Consistent Measure.

Mr. Riley also offers up the myth that automated FCLM cost avoidance has declined and is declining.²⁰ In fact, by any consistent measure, cost avoidance of automated FCLM is increasing. The only way that cost avoidance of automated FCLM can be seen to be declining, is if one continually changes the measurement of that cost avoidance, as does USPS witness Miller. The downward impact which Mr. Miller's continual changes to measurement of cost avoidance have had upon that measure is clearly demonstrated by the testimony of Mr. Bentley on behalf of MMA. Mr. Bentley demonstrates in his Table 6 that Mr. Miller's changes in this case to the Commission R2000-1 methodology have reduced the measurement of automated FCLM cost avoidance by no less than 3.17 cents.²¹ This is not a decline in cost avoidance; but merely a change in the method of measuring cost avoidance.

When one measures cost avoidance on a consistent basis and makes an apples-to-apples comparison, one can see that cost avoidance of automated FCLM continues to increase substantially. In particular, when one compares cost avoidance found by the Commission in R2000-1 to the cost avoidance which results from application of the Commission R2000-1 methodology to the costs in this case, it is clear that automated FCLM cost avoidance continues to increase.

²⁰ Riley Testimony (APWU-T1) at 12 Tr. page 4851, lines 22-24.

²¹ Bentley Surrebuttal Testimony (MMA-SRT-1) at 13 Tr. page 5171, Table 6.

Table 2

INCREASE IN COST AVOIDANCE FROM R2000-1 TO R2001-1

First-Class Workshare Rate Category	PRC 2000-1 Methodology Applied to TY 2001 ²²	PRC 2000-1 Methodology Applied to TY 2003 ²³
Basic	6.2 cents	
Mixed AADC		7.994 cents
AADC		9.076 cents
3-Digit	7.3 cents	9.439 cents
5-Digit	8.7 cents	10.711 cents

Lastly, the fact that FCLM automated cost avoidance is increasing is indicated by the continuing increase in the gap shown in the Cost and Revenue Analysis between the attributable costs for FCM single piece and FCM presort.²⁴

V. **The APWU Proposed Rates Are Arbitrary, And Devoid Of Consideration Of Volume Effects Or 39 U.S.C. § 3622(b) Pricing Criteria.**

A. **The APWU Proposal Arbitrarily Singles Out First Class Automation Mail, Thereby Exacerbating The Disproportionate Cost Coverage Borne By FCM Relative To Standard Mail.**

²² Commission Opinion and Recommended Decision in R2000-1 at page 243, Table 5-3.

²³ Clifton Surrebuttal Testimony (ABA&NAPM-SRT-1) at 13 Tr. page 5285, Table Four.

²⁴ Id. at 13 Tr. pages 5280-5282, Figures 1, 2 and 3.

The arbitrariness of the APWU rate proposals is underscored by the striking fact that APWU would have the Commission apply the 80 to 100% passthrough principles of Mr. Riley's testimony only to First Class presort and automation discounts, and would not apply such a limitation on passthroughs to Standard Mail automation discounts. Much to the discomfort of APWU, their own witness Mr. Riley stated on cross examination that if it were up to him, he would apply his proposal to all classes of mail.²⁵ This fact alone merits rejecting the entire APWU proposal.

Another fatal flaw in the APWU proposal to single out presort and automation FCLM discounts for drastic reductions is that such a policy would further exacerbate the already disproportionately high cost coverage borne by First Class Mail in general and automated First Class Mail in particular, relative to their Standard Mail counterparts. This fact also justifies rejection of the APWU proposal.

B. APWU Erroneously Assumes That Business Mailers Will Deliver Large Volumes Of Automated FCLM Regardless Of The Discount Level.

Further underscoring the unreasonableness of the APWU proposal is the fact that APWU has offered absolutely no evidence on the volume effects of its proposal. Mr. Riley seems to assume that business mailers can simply touch a computer button and automate their mail in conforming fashion with little effort, and therefore would not be deterred from presenting the same large workshare mail volumes to the Postal Service if discounts for such mail were to be

²⁵ Riley Cross Examination at 12 Tr. page 4921, lines 6-8.

slashed.²⁶ This wishful and irrational thinking on the part of Mr. Riley was unequivocally rejected by the surrebuttal testimony of NAPM witness Gillotte (NAPM-SRT-2) and MMA witness, John Crider (MMA-SRT-2). Mr. Crider, Manager of Postal Affairs, Sprint Mailing Services, testified that the level of automated FCLM discounts is extremely important to large volume mailers such as Sprint, and that any reduction in discounts, or failure to increase discounts as costs of preparing automated mail increase, would result in substantial pressure from his company's senior executives to explore other sources for communicating with Sprint's customers other than through the Postal Service.²⁷

C. The APWU Testimony Fails To Mention, Much Less Consider, The Statutory Pricing Criteria Of 39 USC § 3622(b).

Nowhere in the testimony of APWU witness Riley does he provide the Commission with any evidence that his proposed First Class rates are consistent with the statutory pricing criteria of 39 U.S.C. § 3622(b). The primary policy which seems to underlie Mr. Riley's testimony is to maximize Postal Service revenue on the backs of First Class business mailers whom Mr. Riley appears to feel are captive mailers who will continue to generate needed volumes of First Class automated mail in spite of significant reductions in discounts.²⁸ In particular, his testimony lacks any suggestion that he considered Criteria 1 of 39 USC § 3622(b) (establishment and maintenance of a fair and equitable schedule). The proposal to apply Mr. Riley's draconian

²⁶ Riley Cross Examination at 12 Tr. page 4902, lines 15-18.

²⁷ Surrebuttal Testimony of John Crider (MMA-SRT2) at 13 Tr. page 5099, line 11-5101, line 6.

²⁸ Riley Testimony (APWU-T1) at 12 Tr. page 4849, lines 3-5 and Riley Cross Examination at 12 Tr. page 4938, lines 4-9 and 4941, lines 11-24.

methodology to FCLM automation discounts while sparing Standard automation discounts the same fate flies in the face of fairness and equity. Mr. Riley's willingness to impose significant reductions on automated FCLM discounts without apparent concern for the volume effects on the most valuable (i.e., high volume, high contribution) mail stream for the Postal Service, and without any apparent concern about the arbitrariness or unfairness of failing to apply the same treatment to Standard automated discounts, reflects an ill considered bias against First Class workshare mailers, and is yet another reason to reject Mr. Riley's testimony.

VI. **Conclusion**

Application by the Commission of reasoned administrative judgment to the record of this case fully supports all of the rates in the Settlement Proposal. All of those rates except for the FCM presort and automated discounts, are uncontested; and the FCLM presort and automated discounts are fully supported by the cost avoidance evidence in the record, which evidence has been derived from the precise methodology utilized by the Commission in prior cases, including most recently R2000-1. All of the Settlement Proposal rates, including the automated FCLM discounts, are supported by proper consideration of the 39 U.S.C. § 3622(b) pricing factors.

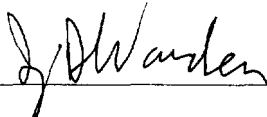
The testimony of one witness, Mr. Riley, offered by one party, the APWU, unsupported by any consideration of volume effects or 39 U.S.C. § 3622(b) pricing criteria and founded on the irrational premise that automated FCLM discounts can be singled out for punitive treatment, provides no basis to reject the Settlement Proposal which is fully supported by evidence in the record, by Commission precedent, and by the mailing public, the OCA, and the Postal Service.

For the foregoing reasons, ABA&NAPM urge the Commission to issue a Recommended Decision recommending implementation of all rates in the Settlement Proposal.

Respectfully submitted,

AMERICAN BANKERS ASSOCIATION

NATIONAL ASSOCIATION OF PRESORT MAILERS

By: 

Henry A. Hart, Esq.
Reed Smith LLP
1301 K Street N.W.
Suite 1100 - East Tower
Washington, DC 20005
Ph: 202-414-9225
Fax: 202-414-9299

Irving D. Warden
Assoc. General Counsel
American Bankers Association
1120 Connecticut Ave., NW
Washington, DC 20036
Ph: 202-663-5035
Fax: 202-828-4548


Counsel for
National Association
of Presort Mailers

Counsel for
American Bankers Association

Date: March 4, 2002

CERTIFICATE OF SERVICE

I hereby certify that I have this date served the instant document on all participants of record in this proceeding in accordance with Section 12 of the Rules of Practice.


Irving D. Warden

March 4, 2002